

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

JACOBS ENGINEERING GROUP INC. and
BLUE CANOPY GROUP LLC,

Plaintiffs-Claimants,

v.

CAPEFIRST FUNDING, LLC;
INVESTOR RECOVERY TRUST
CAPEFIRST ADVISORS, LLC, TRUSTEE;
CAPEFIRST ADVISORS, LLC;
WESTFIELDS HOLDINGS, LLC;
TUCKER NONG & ASSOCIATES, PLLC;
ARES CAPITAL CORPORATION;
UNITED STATES;

and

PARTIES UNKNOWN CLAIMING ANY
RIGHT OR INTEREST IN THE PROPERTY
THAT IS THE SUBJECT OF THIS ACTION,

Defendants.

Civ. No. 1:18-cv-1302

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
MOTION BY INTERPLEADER PLAINTIFFS FOR AN ORDER AUTHORIZING
RECEIPT OF FUNDS TO THE COURT'S REGISTRY**

Pursuant to Rule 67 of the Federal Rules of Civil Procedure, and Local Civil Rule 67, Plaintiffs-Claimants Jacobs Engineering Group Inc. and Blue Canopy Group LLC respectfully move for an order authorizing Plaintiffs to deposit, and the Clerk of the Court to receive, \$1,933,500.00 million into an interest-bearing account, i.e., the Court Registry Investment System (CRIS), which is administered by the Administrative Office of the United States Courts under 28 U.S.C. § 2045, and meets the IRS definition of a Disputed Ownership Fund (DOF) under 28 U.S.C. § 1335.

Plaintiffs-Claimants initiated this action by filing a Complaint for Interpleader and Declaratory Relief with this Court. *See* 28 U.S.C. § 2361. Statutory interpleader constitutes “an equitable remedy designed to protect the stakeholder from multiple, inconsistent judgments and to relieve it of the obligation of determining which claimant is entitled to the fund.” *Sec. Ins. Of Hartford v. Arcade Textiles, Inc.*, No. 01-21-1, 2002 WL 1473417, at *1 (4th Cir. July 10, 2002).

Pursuant to § 1335(a), a statutory interpleader action commences in pertinent part if “the plaintiff has deposited such money or property . . . into the registry of the court.” Plaintiffs-Claimants hereby seek to deposit \$1,933,500.00 to enable commencement of this action. Because the deposited fund is in the amount of \$500 or more, and because two or more adverse claimants are of diverse citizenship, this Court has original jurisdiction. *Id.* § 1335(a)(1) (citing *id.* § 1332).

Accordingly, Plaintiffs-Claimants respectfully request that the accompanying motion be granted and that the Clerk be directed to permit deposit of \$1,933,500.00 for purposes of commencing the instant interpleader action. A proposed order is attached.

Dated: October 18, 2018

Respectfully submitted,

/s/ Thomas Shakow

Thomas Shakow, Esq. (Va. Bar. No. 70291)
Paul Rauser, Esq. (*pro hac vice* pending)
Kimberly Wehle, Esq. (*pro hac vice* pending)
Serine Consolino, Esq. (*pro hac vice* pending)
AEGIS LAW GROUP LLP
801 Pennsylvania Avenue, NW
Suite 704
Washington, D.C. 20004
(202) 737-3375
tshakow@aegislawgroup.com

Counsel for Interpleader Plaintiffs-Claimants